

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

AKORN HOLDING COMPANY LLC, *et al*¹

Debtors.

Chapter 7

Case No. 23-10253 (KBO)

(Jointly Administered)

Re: Docket Nos. 106, 146, 191, 295

**CERTIFICATION OF COUNSEL REGARDING THE
ORDER APPROVING STIPULATION FOR SETTLEMENT
AND CONTINUANCE OF HEARING FOR GALENICUM HEALTH,
S.L.U.'S RESERVATION OF RIGHTS AND OBJECTION TO CURE AND
ASSUMPTION AND ASSIGNMENT**

I, Rafael X. Zahralddin-Aravena, counsel to Galenicum Health, Sociedad de Responsabilidad Limitada Unipersonal organized under the laws of the Kingdom of Spain (“Galenicum”), hereby certifies the following:

1. On April 20, 2023, George L. Miller, as chapter 7 trustee (the “Trustee”) of the estates (the “Estates”) of the above-captioned debtors (“Debtor”) filed a *Motion for Entry of (I) an Order (A) Approving Bidding Procedures in Connection with Sale of Substantially all of the Estates' Assets, (B) Scheduling an Auction and Hearing to Consider the Proposed Sale, and (C) Approving the Form and Manner of Notice Thereof; and (II) an Order (A) Approving the Sale, (B) Authorizing the Assumption and Assignment of Executory Contracts and Unexpired Leases, and (C) Granting Certain Related Relief* (“Sale Motion”) [Docket No. 106]. The Sale Motion

¹ The Debtors in these chapter 7 cases, along with the last four digits of their federal tax identification numbers, and cases numbers are Akorn Holding Company LLC (9190), Case No. 23-10253 (KBO); Akorn Intermediate Company LLC (6123), Case No. 23-10254 (KBO); and Akorn Operating Company LLC (6184), Case No. 2310255. The Debtors’ headquarters is located at 5605 CenterPoint Court, Gurnee, IL 60031.

hearing date was scheduled for April 27, 2023 and then continued to May 19, 2023. Objections to the sale were due on May 16, 2023.

2. On May 1, 2023 the Trustee filed a *Notice of Executory Contracts and Unexpired Leases that May be Assumed and Assigned, Pursuant to Section 365 of the Bankruptcy Code, in Connection with the Sale of Substantially all of the Debtors' Assets, and the Proposed Cure Amounts I* (“Notice”) [Docket No. 146]. In the Notice, Hikma Pharmaceuticals USA Inc. (“Hikma”) listed the assumption and assignment of a *License and Supply Agreement* dated December 22, 2021 between the Debtor and Galenicum (“Contract”) .

3. On May 16, 2023, Galenicum filed its *Reservation of Rights and Objection to Cure and Assumption and Assignment* (“Objection”) [Docket No. 191].

4. Galenicum’s Objection opposed any assumption or assignment of the Contract without its consent due to the nature of the contract. *Id.* Following receipt of the Notice, Galenicum filed its *Declaration in Support of Galenicum Health, S.L.U.'s Reservation of Rights and Limited Objection* (“Declaration”) [Docket No. 295] on May 30, 2023. In the Declaration Galenicum provided factual support for why its contract cannot be assumed without its consent.

5. Galenicum, the Trustee, and Hikma (“Parties”) have been discussing scheduling for the hearing on the contested assumption of the Contract. Galenicum requested a continuance to accommodate two of its witnesses which has been preliminarily set for June 23, 2023. One witness is an expert in Swiss Law pursuant to Federal Rule of Civil Procedure 44.1 which was necessary to interpret the laws of the Federal Republic of Switzerland, which is the law of the contract. Galenicum’s other witness, the *consejero delegado*, or Managing Director of Galenicum, resides in and is a citizen of the Kingdom of Spain.

6. At the same time, Galenicum and Hikma have been engaged in consensual negotiations regarding the Contract and its potential assumption and assignment. Hikma has agreed that it will not seek the assumption and assignment over the objection of Galenicum. The Parties have also agreed that negotiations regarding the Contract will be complete by June 26, 2023. As a result, the Parties no longer need an evidentiary hearing for a contested matter on June 23, 2023 at 9:30 a.m. (ET), as previously requested.

7. The Parties requested that the Court continue the hearing to a date convenient to the Court in the event that Hikma and Galenicum reach an agreement on the prospective assumption and assignment of the Contract. The court through its chambers has provided us with July 18, 2023 at 3:00pm as the continued hearing date.

8. The Parties have all agreed to the attached Stipulated Order and request that the Court approve the same.

9. A copy of the Stipulation is attached as **Exhibit 1** to the proposed form of order approving the Stipulation (the “Order”) which is attached hereto as **Exhibit A**.

WHEREFORE, undersigned counsel hereby respectfully requests that the Order, substantially in the form attached hereto as Exhibit A, be entered at the convenience of the Bankruptcy Court.

Date: June 23, 2023

Respectfully submitted,

/s/ Rafael X. Zahralddin-Aravena

Rafael X. Zahralddin-Aravena (DE Bar No. 4166)

LEWIS BRISBOIS BISGAARD & SMITH, LLP

500 Delaware Ave. Ste. 700

Wilmington, DE 19801

Telephone: (302) 985-6004

Facsimile: (302) 985-6001

Rafael.Zahralddin@lewisbrisbois.com

*Counsel to Galenicum Health, Sociedad de
Responsabilidad Limitada Unipersonal*